

CHAPTER 971

S.B. No. 803

AN ACT

relating to controlled substances in emergency medication kits.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 7, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. RULES, REGULATIONS AND ENFORCEMENTS. (a) The Licensing Agency is authorized to adopt, amend, promulgate, publish and enforce minimum standards in relation to:

(1) [(a)] Construction of the home or institution, including plumbing, heating, lighting, ventilation and other housing conditions, which shall insure the health, safety and comfort of residents and protection from fire hazard;

(2) [(b)] Regulate the number and qualification of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents, and establish requirements for in-service education of all employees who have any contact with residents;

(3) [(c)] All sanitary and related conditions within the institution and its surroundings, including water supply, sewage disposal, food handling and general hygiene, which shall insure the health, safety and comfort of the residents;

(4) [(4)] Diet related to the needs of each resident and based upon good nutritional practice or on recommendations which may be made by the physician attending the resident;

(5) [(5)] Equipment essential to the health and welfare of the residents;

(6) [(6)] At least two unannounced inspections per year shall be mandatory; in order to ensure continuous compliance, a sufficient percentage of institutions shall be selected at random by the Licensing Agency for unannounced inspections to be conducted between the hours of 5 p.m. and 8 a.m., with those inspections to be cursory in nature in order to avoid to the greatest extent feasible any disruption of the patients or residents in the institution; further inspections may be required by the Licensing Agency;

(7) [(7)] For at least two unannounced inspections in each year as required by *Subdivision (6) of this subsection* [~~Subsection (f) of this section~~], the Licensing Agency shall arrange to invite in the inspections at least one person as a citizen advocate from one of the following groups: American Association of Retired Persons, the Texas Senior Citizen Association, the Texas Retired Federal Employees, the Texas Department on Aging Certified Long Term Care Ombudsman, or any other statewide organization for the elderly, except that this *subdivision* [~~subsection~~] does not apply to an institution that provides maternity care;

(8) [(8)] The use and administration of medications in conformity with applicable law and rules and regulations on the use and administration of medications; all personnel administering medications must have completed a state-approved training program in medication administration;

(9) [(9)] Grading each home or institution so as to recognize those homes or institutions that go beyond the minimum level of services and personnel, as established by the agency and a superior grade shall be prominently displayed for public view and as incentive to attain the superior grade, allow each home or institution to advertise such grade. The agency shall not award a superior grade to an institution if the institution has violated state or federal laws or regulations during a period of 12 months prior to the grading inspection. The agency shall cancel a superior grade granted to an institution if (1) the institution fails to meet the criteria established for a superior grade; or (2) the institution has violated state or federal laws or regulations. For the purposes of this *subdivision* [~~subsection~~], a "violation of state or federal laws or regulations" means a violation of a law or regulation which affects the health, safety, or welfare of the residents of an institution; resident funds; the confidentiality of records of a resident; the financial practices of an institution; and the control of medication within an institution. If a superior grade is cancelled, the institution is prohibited from advertising the superior grade. This *subdivision* [~~subsection~~] does not apply to an institution that provides maternity care.

(b) [(b)] The Licensing Agency shall require one medical examination per resident per year. The details of this examination will be specified by the Licensing Agency.

(c) [(c)] Unless another state or federal requirement prohibits, the Licensing Agency shall allow a licensed facility to operate a portion of the facility under the standards of a lesser licensing category. The Licensing Agency shall determine the rank of licensing categories and shall establish procedures and standards to accommodate a facility's operation under the lower category. Unless federal requirement prohibits, the operation of a portion of a facility under the standards of a lesser licensing category shall not constitute abandonment of the higher category of service under the certificate of need program, as provided in the Texas Health Planning and Development Act, as amended (Article 4418h, Vernon's Texas Civil Statutes).

(d) The Licensing Agency is further authorized to provide for advice to and coordination of its personnel and facilities with any local agency of a city or county where such city or county shall see fit to supplement the state program with further regulations required to meet local conditions.

(e) *Institutions licensed under this Act shall have a right and privilege to maintain a supply of controlled substances in an emergency medication kit to be used for patients' emergency medication needs. Said controlled substances shall be labeled in*

*accordance with all applicable state and federal food and drug laws, including the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes). The amount of controlled substance, type of controlled substance, and procedure for use of controlled substance in the emergency medication kit shall be under rules and regulations promulgated by the Texas Department of Health, Bureau of Long Term Care. The storage of controlled substances in the emergency medication kit shall be under the supervision of the consultant pharmacist. The administration of such controlled substances shall be in accordance with all applicable laws.*

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 4, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on May 22, 1987, by the following vote: Yeas 148, Nays 0, one present not voting.

Approved June 19, 1987.

Effective June 19, 1987.